

### REMARKS

No claims are being cancelled. Claims 16-21 are being added. Claims 1-3, 5-8, 10-11 and 13-15 are being amended. Upon entry of this amendment claims 1-21 will be pending in the application.

MPEP at section 2173.05(h)(I) lists Markush groups as a form of alternative limitations. The MPEP at section 2173.05(i), pp. 2100-208 states, with bolding added: "Any negative limitation or exclusionary proviso must have basis in the original disclosure. **If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims.**"

The provisos in claims 1, 10 and 14-15 are allowable under the instruction of MPEP §2173.05(i) and do not enter new matter. The provisos are also supported by the court decisions that have allowed an applicant to claim a narrowed species within an originally claimed genus. See In re Wertheim, 191 USPQ 90, 97 (CCPA 1976).

The addition of alkyl as an R<sub>1</sub> moiety in claim 1 is supported by Table 2. The addition of alkyl, substituted alkyl, alkenyl and alkynyl as R<sub>2</sub> moieties in claim 1 is supported by Table 2. The addition of O-alkyl, cycloalkyl, polycyclic and heterocyclic as R<sub>2</sub> moieties in claim 1 is supported by as filed claim 15. The addition of CH<sub>2</sub>CH=CH<sub>2</sub> and C≡CH as R<sub>2</sub> moieties in claim 1 is supported by compounds 7 and 8 in Table 1. The addition alkyl, substituted alkyl, aryl, alkylaryl, O-alkyl, O-alkylaryl, cyclic radical and heterocyclic radical as R<sub>3</sub> moieties in claim 1 is supported by Table 2.

The amendment to claims 2-9 is supported by as filed claim 1.

The addition of alkyl as an R<sub>1</sub> moiety in claim 10 is supported by Table 2. The addition of alkyl, substituted alkyl, alkenyl, alkynyl, O-alkyl, cyclic group, polycyclic group and heterocyclic group as R<sub>2</sub> moieties in claim 10 is supported by Table 2. The addition of alkyl, substituted alkyl, aryl, alkylaryl, O-alkyl, O-alkylaryl, cyclic group and heterocyclic group as R<sub>3</sub> moieties in claim 1 is supported by Table 2.

The amendment to claims 11-13 is supported by as filed claim 10.

The addition of O-alkyl, cyclic group, polycyclic group and heterocyclic group as R<sub>2</sub> moieties in claim 14 is supported by Table 2.

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New claim 16 is supported by as filed claim 1 and compounds from Table 1. New claim 17 is supported by Table 1. New claim 18 is supported by as filed claim 10 and Table 2. New claim 19 is supported by Table 1. New claim 20 is supported by as filed claim 10, Table 1 and Table 2. New claim 21 is supported by as filed claim 1, Table 1 and Table 2.

Applicant thanks the Examiner for indicating that claims 4, 9 and 11 (and 12?) contain patentable matter.

The rejection of claim 1 under 35 U.S.C. §112, second paragraph.

Claims 1, 7-8 and 10 were rejected under 35 U.S.C. §112, second paragraph as being indefinite. More particularly, the Examiner indicated that some of the recited R<sub>1</sub> and R<sub>2</sub> moieties resulted in dangling valences. Applicant has amended these claims so that any proper rejection is obviated.

The rejection of claims 10 and 13-15 under 35 U.S.C. §102(b) over Khanolkar et al.

Claims 10 and 13-15 were rejected under 35 U.S.C. §102(b) as having each and every feature and interrelationship anticipated by Khanolkar et al.; Journal of med. Chem; vol. 39; 4515-4519 (1996).

The provisos in claims 10 and 14 are believed to eliminate overlap with the Khanolkar reference. Claims 10 and 14, and claims dependent therefrom, are not anticipated or obvious over the Khanolkar reference.

The rejection of claims 1-3, 5-6, 10 and 13-15 under 35 U.S.C. §102(b) over U.S. Patent No. 5,631,297 to Pate et al.

Claims 1-3, 5-6, 10 and 13-15 were rejected under 35 U.S.C. §102(b) as having each and every feature and interrelationship anticipated over U.S. Patent No. 5,631,297 to Pate et al. The provisos in claims 1, 10 and 14 are believed to eliminate overlap with the Pate reference. Claims 1, 10 and 14, and claims dependent therefrom, are not

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anticipated or obvious over the Pate reference.

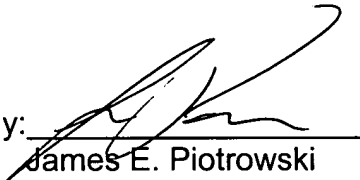
In summary, Applicants have addressed each of the objections and rejections within the present Office Action. It is believed the application now stands in condition for allowance, and prompt favorable action thereon is respectfully solicited.

The Examiner is invited to telephone Applicant's attorney if it is deemed that a telephone conversation will hasten prosecution of this application.

Respectfully submitted,

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